

Application No.: 10/731,870
Attorney Docket No.: 011644-0307261

REMARKS

I. Status of the claims

Claims 46-69 are pending. Minor amendments have been made to claims 46, 49, 54, 55, and 63.

II. Specification

Per the examiner's suggestion, Applicants have amended the specification to correct the status of the parent application.

III. Rejections under 35 U.S.C. § 112, second paragraph

The examiner has rejected claims 49, 54, 55, and 63 under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants have amended these claims to conform the claims in accordance with the suggestions provided by the examiner. Applicants therefore respectfully request that the rejections under 35 U.S.C. § 112, second paragraph be withdrawn.

IV. Obviousness-type double patenting

The examiner has rejected claims 46-69 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,776,287. With this response, Applicants file a terminal disclaimer over U.S. Patent No. 6,776,287 to overcome this rejection.

V. Rejection under 35 U.S.C. § 103(a)

The examiner has rejected claims 46-69 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,626,840 to Thomaides et al. ("Thomaides") in view of U.S. Patent No. 4,501,852 to Markusch et al. ("Markusch").

The examiner states that Thomaides discloses the production of water-soluble films from polyurethane aqueous dispersions. Even though Thomaides does not disclose using the film as a water-soluble packaging film, the subject matter to which Applicants' claimed invention is directed, the examiner concludes that Thomaides nonetheless discloses this feature of Applicants' claimed invention. In particular, the examiner takes the position that "the term

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'packaging,' without more is insufficient to distinguish the claimed invention from the prior art because any application of the film is fairly considered to constitute a form of 'packaging'."

Applicants respectfully disagree.

Thomaides discloses an aqueous hair fixative composition that can be applied to the hair in the form of, for example, a spray. The composition forms a clear, transparent, glossy film that is easily removable with water (its rinsability) or with water and shampoo. See col. 1, lines 41-45. The films found are clear, hard, glossy and provide humidity resistance while being readily removable. See col. 6, lines 40-42.

In contrast to the disclosure of Thomaides, Applicants' claimed invention is directed towards a packaging film. A "packaging film," by its ordinary meaning, is a film suitable for making a package containing goods/products. A packaging film exists in a stable form such as a roll or sheet that can be used to pack different products.

While Thomaides uses the term "film," Thomaides clearly does not envision a packaging film. The clear, transparent, glossy films easily removable from the hair that are described in Thomaides do not possess the structural and mechanical properties or encapsulating abilities necessary for packaging a good or a product. Rather, the Thomaides "film" is simply a coating layer that rests on the top of hair until it is removed with water or a combination of water and shampoo.

The aqueous solutions disclosed in Thomaides are neither intended nor suitable for use as a packaging material. A solution, when applied to a substrate such as hair, will coat the hair; it cannot form a package that encapsulates the hair. Applicants respectfully submit that the examiner appears to be concentrating on the water solubility aspects of Applicants' claimed packaging film and the aqueous composition of Thomaides while ignoring the inherent differences between the characteristics of a packaging film and an aqueous composition (liquid solution) to be applied to the hair.

Markusch, relied upon by the examiner as the secondary reference, fails to overcome the deficiencies of Thomaides. Markusch is directed towards an aqueous dispersion of polyurethane ureas, and does not relate to a packaging film. Markusch and Thomaides, taken alone or in combination, fail to teach or suggest a packaging film, as in Applicants' claimed invention, that is capable of being used to package different products.

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Accordingly, Applicants respectfully request that the examiner withdraw this rejection under 35 U.S.C. § 103.

VI. Conclusion

If there are any outstanding issues, the examiner is encouraged to contact the undersigned counsel to expeditiously resolve such issues.

The Commissioner of Patents is authorized to charge any fees or credit any overpayments associated with this application to Deposit Account No. 03-3975.

Respectfully submitted,

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